



State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt  
Governor  
Kathleen Clarke  
Executive Director  
Lowell P. Braxton  
Division Director

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Salt Lake City, Utah 84114-5801  
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September 12, 2000

CERTIFIED RETURN RECEIPT  
Z 230 748 245

Don W. Fullmer  
Paradise Management Inc.  
905 North Main  
Fillmore, Utah 84631

Re: Notice of Non-Compliance, Paradise Management Inc., Koosharem Mine, M/031/002, Piute County, Utah

Dear Mr. Fullmer:

This letter is sent to notify you, that your Koosharem mine or portions thereof, are not in compliance with certain sections of the Utah Mined Land Reclamation Act 40-8-1 et seq and the Minerals Reclamation Program Rules R647-1 through R647-5.

Accordingly, the Division hereby issues this Notice of Non-Compliance pursuant to the provisions of the Minerals Program Rules R647-5-104 et seq. and Sections 63-46b-4 and 63-46b-5 of the Utah Code Annotated (1953, as amended).

**Mine Site Location**

The Mine is located in the Southeast 1/4 of the Southeast 1/4 of the Southeast 1/4 of Section 2, Township 27 South, Range 2 West, SLBM, Piute County, Utah.

On June 13, 2000, an inspection was conducted at the Koosharem mine by Lynn Kunzler and Jared Sorensen of the Minerals Program staff. As part of the site inspection, a GPS survey was performed of the disturbed area. The results of the survey showed that the surface disturbance has been increased by more than 5 acres beyond the permitted and bonded acreage (inspection memo enclosed).

**Applicable Statutory Provisions and Minerals Rules which are in violation:**

Title 40-8-14(1) Surety Requirement: After receiving notification that a notice of intention for mining operations has been approved, but prior to commencement of those operations, the operator shall provide surety to the Division, in a form and amount determined by the Division.

Title 40-8-18(1)(3) Notice of Intention to Revise Operations: An operator who is conducting mining operations under an approved notice of intention shall submit to the Division a notice of intention

when revising mining operations. The operator shall be authorized and bound by the requirements of his existing notice until the revision is acted upon and any revised surety requirements are established.

**R647-4-113. Surety:** Prior to commencing large mining operations, the operator shall provide reclamation surety to the Division.

**R647-4-118 Revisions:** In order to Revise a Notice of Intention (NOI), an operator shall file a Notice of Intention to Revise Large Mining Operations (Form MR-REV). The operator will be authorized and bound by the requirements of the existing approved notice until the revision is acted upon and any revised surety requirements are satisfied.

Because you have expanded the operations without first filing and receiving Division approval of an amendment/revision to the approved NOI and posting additional reclamation surety, your actions may also constitute a violation of section 40-8-9 of the Utah Mined Land Reclamation Act (a willful and knowing violation). A finding of willful and knowing violation is a misdemeanor, and may subject the operator to fines up to \$10,000 for each violation.

#### **Mitigation Requirements**

1. Post an additional reclamation surety in the amount of \$12,800.00 with the Division of Oil, Gas and Mining within two (2) weeks of your receipt of this Notice to cover the expanded disturbances associated with the Koosharem mine. The Division and BLM should be listed as co-obligee(s) on the bond. This will bring the total surety to \$28,000.00

The additional reclamation surety dollar amount is based on approximately 5.25 acres of additional disturbance (11.75 acres of total surface disturbance) times \$2,340.00 per acre (average cost per acre previously calculated for reclamation at the Koosharem Mine, rounded to up to the nearest \$1,000 as per BLM requirements). This temporary surety amount will be adjusted accordingly (up or down) to reflect actual third party reclamation costs, once an amendment/ revision to the large mining permit has been approved for this site.

2. Submit an amendment/revision to your approved Large Mine Permit to the Division and the BLM, Attention, Stan Perkes, P.O. Box 45155, Salt Lake City, Utah 84155-0155 within 45 days of your receipt of this Notice (copy of Form MR-REV attached). The amendment/revision must include all current disturbance as well as any projected increase, for the next 5 year reclamation surety escalation period.
3. All mining related activity must be restricted to the original 6.5 acres of disturbance until such time that the amendment/revision is approved and the revised reclamation surety is posted.
4. The BLM may have additional requirements under the terms and conditions of the Lease. They will contact you separately for additional information.

### **Rights of Appeal**

R647-5-104(2.11.116) - Paradise Management Inc. has a right to appeal this Notice of Non-Compliance by requesting an *informal* administrative hearing before the Division Director. Should you choose to pursue this option a *written* appeal to this decision must be filed with this office within 10 days of your receipt of this certified letter. If no hearing is requested, then the Division's decision will become final. (A copy of the R647-5, Administrative and Procedural Rules, is enclosed for your reference should you decide to file an appeal.)

*Please note: Paradise Management may choose to appeal this Notice of Non-Compliance in a less formal manner by first requesting a meeting before me and appropriate Division staff familiar with the mine site. Your right to file a formal appeal with the Division Director at the conclusion of this meeting would not be jeopardized by taking advantage of this option.*

### **Instructions for Filing an Appeal of the Division Decision**

The written appeal must be mailed to the attention of the Division Director (Lowell P. Braxton), and include (at a minimum) the following information: 1) your intent to appeal; and 2) the specific violations you wish to appeal. The appeal must be filed with this office within 10 days from the date of your receipt of this certified letter.

*Note: If you choose to appeal this Notice by scheduling a meeting with me, the Acting Associate Director, please contact Tiffini Moss, Administrative Secretary, at (801) 538-5304 to arrange a convenient time and date to discuss this matter. Your appeal request must be received within 10 days from the date of your receipt of this certified letter.*

### **Informal Hearing Conducted before Division Director**

R647-5-104(2.11.115) - The adjudicative proceeding will be conducted informally according to the provisions of these Rules and Sections 63-46b-4 and 63-46b-5 of the Utah Code Annotated (1953, as amended).

R647-5-104.2.11.113 - The name of the adjudicative proceeding is in the matter of the Notice of Non-compliance issued by the Division of Oil, Gas and Mining to Paradise Management, Inc. to suspend mining operations within the expanded, unpermitted disturbed area; to post supplemental reclamation surety and to file a permit revision (Form MR-REV) to allow continued mining operations at the Koosharem mine site.

### **Authority and Jurisdiction**

R647-5-104(2.11.117) - Pursuant to section 40-8-5, Utah Code Annotated (1953, as amended), and in accordance with Utah Administrative Rules R647-3-113, R647-4-101, and R647-4-107(6).

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Don Fullmer  
M/031/002  
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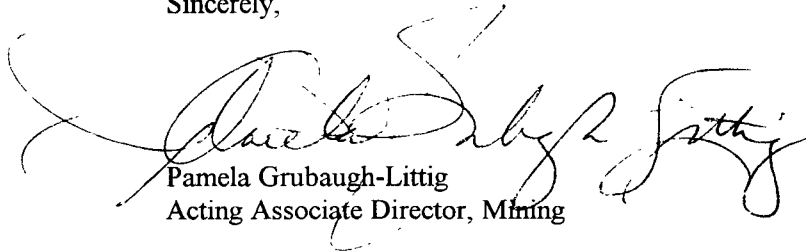
**Purpose of the Adjudicative Proceeding**

R647-5-104(2.11.119) - The purpose of the adjudicative proceeding (i.e., informal hearing) is to determine if the operator is in violation of the above cited rules.

Enclosed is a Notice of Intention to Revise Mining Operations (Form MR-REV). Please contact the Division within 7-10 days of your receipt of this Notice so that we can make arrangements to send you the appropriate reclamation surety forms and updated Reclamation Contract Agreement to revise the existing surety amount currently held for this site.

Please contact me, Wayne Hedberg, or Lynn Kunzler of the Minerals staff, if you have questions concerning the requirements of this non-compliance notice.

Sincerely,



Pamela Grubaugh-Littig  
Acting Associate Director, Mining

jb

Enclosures: procedural/admin. rules; MR-REV,  
two inspection memos  
cc: Stan Perkes, BLM (State Office)  
Mary Ann Wright, BLM (State Office)  
Steve Winslow, USFS, Beaver Ranger District  
Lynn Kunzler, OGM  
m31-02-koosharem.wpd